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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2002 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Argentina to the United Nations presents its compliments to the Chairman of the Security Council Committee established by resolution 1267 (1999) and has the honour to transmit herewith the report* of the Government of Argentina on the implementation of Security Council resolution 1390 (2002) (see annex).

* The annexes are on file with the Secretariat, room S-3055, and are available for consultation.

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Annex to the note verbale dated 16 April 2002 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

Report from the Argentine Republic on the implementation of Security Council resolution 1390 (2002)

A. Introduction

Argentina is implementing the provisions of United Nations Security Council resolutions establishing sanctions in its domestic legislation via executive decrees. Decree No. 623/2002 of 16 April 2002 (published in the *Official Gazette* of 17 April 2002) incorporated resolution 1390 (2002) into the country's legal system.

That Decree has given the resolution the public exposure needed to see it implemented by the State agencies with responsibilities in the areas it covers, and to make it binding on persons under Argentine jurisdiction.

Article 3 of Decree No. 623/2002 provides for the list of individuals and entities referred to in paragraph 2 of resolution 1390 (2002) to be updated by means of resolutions of the Ministry of Foreign Affairs, International Trade and Worship. In compliance with that Decree, Ministerial Resolution No. 623/2002 of 18 April 2002 was issued. It will be published in the *Official Gazette*.

We should mention that the issuing of these domestic rules and regulations was hampered administratively by the recent government changes in Argentina.

It should be pointed out that before Decree No. 623/2002 and Ministerial Resolution No. 623/2002 were issued, the essence of resolution 1390 (2002) had already been covered in large measure by the rules and regulations implemented pursuant to resolutions 1267 (1999), 1333 (2000) and 1373 (2001), including, respectively, Decrees Nos. 253/2000, 1035/2001 and 1235/2001. As a result, the obligations stemming from resolution 1390 (2002) are already established in Argentina.

It was against this background that the authorities competent to handle implementation were given details of the sanctions provided for in resolution 1390 (2002), for the sake of continuity of implementing measures and to enable them to take preventive action in situations potentially involving individuals and entities identified by the Committee established pursuant to resolution 1267 (1999).

Where the financial aspects of resolution 1390 (2002) are concerned, because Argentina has been in a delicate economic and financial position in recent times, controls and restrictions on the movement of bank deposits have had to be introduced. They cover all transactions and movements of funds and assets inside the Argentine banking system, and therefore include those to which resolution 1390 (2002) refers.

B. Operative paragraph 2 of the resolution

2. Decides that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

Argentina has issued Executive Decree No. 623/02, article 2 of which requires the national executive power, federal government departments and agencies, provincial governments, municipal authorities and the autonomous government of the city of Buenos Aires to apply within their respective jurisdictions whatever measures may be necessary to comply with the decisions contained in resolution 1390 (2002).

Implementing article 3 of Decree No. 623/02, Resolution No. 623/02 of the Ministry of Foreign Affairs, International Trade and Worship updates (through additions and deletions) the list of individuals and entities identified by the Committee, with a view to implementation in the jurisdictions of each of the entities to which the Decree refers.

In connection with the measures adopted in this area, Argentina would also refer the Committee to the sections of the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) which deal with paragraphs 1 (c) and (d) of that resolution (S/2001/1340, pp. 6-9), and its annexes.

It should be pointed out that before Decree No. 623/02 was passed and published, Law No. 25.561 on Public Emergency and Exchange Reform declared a public emergency in social, economic, administrative, financial and exchange matters (see article 1). The universal measures introduced as a result of the country's serious economic emergency prohibit transfers of funds out of the Argentine financial system. Article 2 (b) of Decree No. 1570 of 1 December 2001 forbids "transfers of funds abroad, except for those that correspond to foreign trade transactions, to the payment of expenses or withdrawals made abroad by means of credit or debit cards issued by Argentine banks, to the payment of financial transactions or to other functions, in this latter case subject to Central Bank authorization".

The Decree also forbids "withdrawing cash in excess of two hundred and fifty pesos or United States dollars per week by the holder or holders (of the bank account) who sign jointly or separately, from the whole of their bank accounts in each financial institution". It exempts from this prohibition "labour-related credits: pay, assets, remuneration or allowances, benefits, pensions and other welfare payments, social benefits and social security payments, and maintenance payments

in general. These are exempted from the restrictions established herein or restrictions which may result from amendments hereto, in order to make them freely and fully available to their holders".

The Decree also states that "the export of foreign banknotes and coins, and precious metal coins, is forbidden, except when carried out through entities overseen by the Office of the Superintendent of Financial and Exchange Institutions previously authorized by the Central Bank, or unless they do not exceed ten thousand United States dollars or its equivalent in other currencies, at the 'sell' rate determined by the Banco de la Nación Argentina".

Circulars from the Central Bank to the entities making up the financial system have specifically set out the scope of the exemptions. None of them applies to the cases envisaged in resolution 1390 (2002).

The scope of the controls and restrictions on transactions involving funds and assets inside the Argentine banking system is universal, so they are not ratione personae targeted solely at the individuals and entities specified in resolution 1390 (2002). Instead, they set up a system of prohibitions, authorizations and checks that is consistent with the resolution's requirements. As a result, Argentina has indirectly complied with the general tenor of the obligations that the resolution entails.

In the interests of remaining consistent with the timely measures adopted, the Central Bank was informed of the content of resolution 1390 (2002) and provided (as a preventive measure) with the updated lists of individuals and entities identified by the Committee established pursuant to resolution 1267 (1999).

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified;

The remarks made above in connection with paragraph (a) and with the effects of Decree No. 623/02 and Resolution No. 623/02 are valid here too.

Argentina would also refer the Committee to the parts of the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) which deal with paragraphs 2 (g) (S/2001/1340, pp. 19-21) and 3 (a) (S/2001/1340, pp. 21-24) of that resolution, and its annexes.

The immigration authorities, the National Gendarmerie and the Argentine Coastguard received information in time to allow them to take appropriate preventive action in accordance with the content of resolution 1390 (2002), and received the lists of persons subject to the restrictions set out in that resolution.

(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;

The remarks made above in connection with paragraphs (a) and (b), and with the effects of Decree No. 623/02 and Resolution No. 623/02 are valid here too.

In connection with the measures adopted in this area, Argentina would also refer the Committee to the sections of the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) which deal with paragraphs 2 (a) (S/2001/1340, pp. 11 and 12), 3 (a) (S/2001/1340, pp. 22 and 23), and 4 (S/2001/1340, pp. 30-32) of that resolution, and its annexes.

The National Commission for Export Controls on Sensitive Goods and Military Materiel, which regulates exports of military materiel pursuant to Decree No. 603/92, has been informed of the content of resolution 1390 (2002), and received the lists of individuals and entities subject to the restrictions set out in that resolution.

C. Operative paragraph 8 of the resolution

8. Urges all States to take immediate steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating on their territory, to prevent and punish violations of the measures referred to in paragraph 2 of this resolution, and to inform the Committee of the adoption of such measures, and invites States to report the results of all related investigations or enforcement actions to the Committee unless to do so would compromise the investigation or enforcement actions;

As explained in the report (S/2001/1340, p. 3), the Government set up an inter-ministerial committee to analyse and evaluate to what extent Argentine law was in line with international conventions concerning terrorism. Resolution No. 189/2002 of the Ministry of Justice, of 4 April 2002, set the inter-ministerial committee a deadline of 90 days (with a possible extension of a further 90 days) to produce whatever draft legislation it considered appropriate to incorporate the relevant offences into the country's laws, so that terrorist acts could be efficiently investigated, judged and punished.